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UNCLAS SECTION 01 OF 03 ADDIS ABABA 000667

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SUBJECT: JUDGE ENTERS "NOT GUILTY" PLEA FOR SILENT  
ETHIOPIAN OPPOSITION LEADERS

REF: A. ADDIS ABABA 49

1B. 05 ADDIS ABABA 4202

11. (U) SUMMARY: Four months after their arrest, nearly 90 Ethiopian opposition leaders, rank-and-file supporters, independent journalists, and NGO representatives remain in detention, awaiting prosecution on capital charges ranging from "outrages against the constitution" to high treason and genocide. Government prosecutors have given some defendants a list of evidence to be presented against them (comprising alleged internal party documents, medical certificates, press clippings, and both audio and video cassettes of meetings), but have yet to present any evidence formally in court. The defendants most recently appeared in court as a group on February 23, just days after lead defendant Hailu Shawel underwent emergency eye surgery. Asked to enter pleas, most defendants chose to remain silent rather than acknowledge the charges against them. The presiding judge refused to allow Hailu Shawel and other detained CUD opposition leaders to make what he considered to be political statements in court. On March 1, the High Court rejected a defense motion to have three detained representatives of civil society NGOs tried separately from CUD party leaders, arguing that separate trials would create difficulties for witnesses. Sources confirm that some detained CUD party leaders have been categorized as "criminally dangerous" and placed in detention with common criminals; mayor-elect Berhanu Nega complained in court that he now shares quarters with 300 other "dangerous" inmates. The next court appearance is scheduled for March 12. END SUMMARY.

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JUDGE TAKES SILENCE AS "NOT GUILTY" PLEA  
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12. (U) On February 23, nearly 90 defendants made their first appearance in court since being denied bail seven weeks earlier on January 4. Those appearing in court included: former Coalition for Unity and Democracy (CUD) party chairman Hailu Shawel; CUD vice chairman and former high court judge Bertukan Mideksa; Professor Mesfin Woldemariam, who is age 75 and has apparently now ended the liquids-only hunger strike that resulted in his losing "half his body weight" (according to his daughter); Dr. Yacob Hailemariam; and Addis Ababa mayor-elect Berhanu Nega, whose wife is a U.S. citizen. During the three-hour-long proceedings, the court asked each defendant to acknowledge whether they had committed the crimes they were charged with, and to state any objections.

After the presiding judge stopped Hailu Shawel and other defendants, stating that they could not make political statements but only enter a plea, defendants largely chose to remain silent, prompting the judge to declare that the court would declare silence as a plea of "not guilty." CUD vice-chairman Bertukkan Medeksa attempted to make a statement at the end of the proceeding, declaring that defendants did not want to appear in court nor to defend themselves, as the trial was a political one. The presiding judge interrupted her, stating that he would follow court procedure, rather than allow political speeches.

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CIVIL SOCIETY NGOS PROTEST LACK OF EVIDENCE  
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¶3. (U) Rather than remain silent, three representatives of civil society NGOs (Daniel Bekele, of ActionAid Ethiopia; Netsanet Demissie of the Organization for Social Justice in Ethiopia; and Kassahun Kebede, leader of a teachers' association), acknowledged the authority of the court, but vocally objected to the charges, declaring their innocence and decrying the lack of evidence against them. Seeking to be tried separately from CUD leaders and detained journalists, these NGO representatives unsuccessfully argued that the prosecution's charges against them lacked specific detail, and therefore should be dismissed. On March 1, in a separate hearing attended only by the three NGO representatives and two defendants who had not already entered pleas (a teen-age boy whose claim to be 14 years old and thus under-age was rejected by the court, and a man from Gojjam who had been arrested recently), the High Court ruled that the prosecutors' charges against the NGO representatives

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were proper, and agreed with the prosecutors' argument that sufficient evidence existed and would be presented at trial in the future. The court deferred decision on whether defendants should be provided with a list of prosecution witnesses and the testimony such witnesses were expected to provide, citing prosecution concerns about witness protection as defendants being tried in absentia remained at large.

¶4. (SBU) According to a visiting ActionAid executive from London who is observing the trial, the NGO representatives received "empty" dossiers from prosecutors when formal charges were announced in court on December 21. In contrast, 39 detained CUD leaders each received a "list of evidence" from prosecutors that named 91 documents and 35 audio or video cassettes to be presented by prosecutors; these CUD defendants also each received photocopies of the 91 documents listed. The ActionAid executive decried the political nature of the charges against Daniel Bekele and Netsanet Demissie, whom he underscored were not members of the opposition CUD party, but had been active in civil society programs, including monitoring the 2005 national elections; they also constituted Ethiopia's secretariat for the G-8 Global Call to Action Against Poverty. He said they faced prosecution solely for issuing official statements on behalf of ActionAid, and cited a public statement by the Ministry of Justice critical of ActionAid.

¶5. (SBU) The ActionAid executive, a UK national, reported that authorities had allowed him to visit only the detained NGO representatives in Kaliti prison. (NOTE: Visiting U.S. academic Donald Levine was allowed to visit the detained CUD leadership for three hours; EU development commissioner Louis Michel also obtained access separately. The head of delegation of the International Committee of the Red Cross (ICRC) confirms, however, that ICRC has not been allowed access to Kaliti prison since CUD leaders were transferred there in December. Similarly, ICRC has not been allowed to visit Ziway prison since detainees from Dedessa military camp were moved there at the end of 2005. Previously, ICRC had regular access to both facilities. END NOTE.) The ActionAid executive noted that Daniel Bekele and Netsanet Demissie had

each been kept isolated from each other.

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SOME CUD LEADERS HELD WITH "DANGEROUS CRIMINALS"  
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¶ 16. (U) The ActionAid executive reported that prison authorities had divided all the nearly 90 political detainees into three segregated groups. He confirmed that some detained CUD leaders, including mayor-elect Berhanu Nega, had been identified as "criminally dangerous" and placed with violent criminals; as a result, they were shackled when transported to court and generally faced harsher treatment. During the February 23 proceeding, Berhanu Nega complained that he now shared overcrowded quarters with 300 other inmates, that certain reading material was not allowed, and that he was shackled when brought to court; a prison official testified that the prison was doing "the best with what we have" and denied that reading material was suppressed.

¶ 17. (SBU) The appearance in court on February 23 of CUD chairman Hailu Shawel came only three days earlier he had received emergency eye surgery for a detached retina, performed at a local hospital in Addis Ababa by a visiting South African surgeon. According to family members, while the surgery reattached the retina and prevented likely blindness, Hailu was discovered to have a hole in the macula of the eye, a condition which could require additional eye surgery in the future. Post's regional medical officer, reviewing medical conditions reported by Hailu's personal physician (forwarded to AF/E), notes that Hailu displays symptoms of untreated diabetes.

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COURTS CITE "LACK OF JUDGES" IN DEFERRING RULINGS  
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¶ 18. (U) Although the high court ruled on January 4 that none of the 131 defendants (including nearly 40 to be tried in absentia) were eligible for bail, NGO representatives Daniel

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Bekele and Netsanet Demissie have appealed the High Court's decision to the Supreme Court, which was to have ruled on their motion on March 6. However, the Supreme Court failed to convene, citing lack of judges as an excuse. Similarly, Berhanu Mogesse, a defense attorney who had been representing Hailu Shawel and other detained CUD defendants, was to have made a second appearance in court on March 6, after being arrested and remanded into custody two weeks earlier following a meeting with visiting EU commissioner for development Louis Michel. However, the Court of First Instance also failed to convene March 6 to consider Berhanu Mogesse's case, again citing lack of judges.

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TRIAL CONTINUES TO INFLAME PUBLIC OPINION  
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¶ 19. (SBU) In deciding to transfer selected CUD leaders to the general prison population and to identify some as "criminally dangerous," prison officials are imposing harsher treatment on defendants, a possible reaction to public statements attributed to CUD vice chairman Bertukan Mideksa that have been smuggled out of prison and subsequently posted on diaspora websites. The ongoing trial continues to inflame public opinion; several clashes occurred last week between police and secondary or high school students reportedly protesting the outcome of the March 1 hearing. The court has imposed new restrictions on those observing the trial: for example, issuing only a single court pass to each defendant's family. Post continues to send observers (consular chief, deputy pol/econ counselor, and an Amcit FSN to assist in interpretation of the Amharic-language proceedings) to the court proceedings, as do nearly a dozen foreign diplomatic missions. Ethiopian officials are giving mixed signals about

the future course of the trial: on March 1, prosecutors sought a one-month delay in proceedings, citing the need to issue a public summons for 37 defendants at large through publication in local newspapers; however, the presiding judge asked that this be accelerated, and has called for the High Court to convene next on March 22. A parliamentary commission headed by a Supreme Court judge, tasked with determining whether the GOE reacted to June and November 2005 anti-government protests with appropriate force, is also expected to issue its findings soon.

HUDDLESTON